IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH PAUSHA 1928

OP.No. 4179 of 2003(V)

PETITIONER:

K.G.ELDO, KOTTIKKAL HOUSE,
VADATTUPARA, P.O.VADATTUPARA, KOTHAMANGALAM.

BY ADV. SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENTS:

1. THE KERALA TODDY WORKERS WELFARE FUND
BOARD, REPRESENTED BY ITS SECRETARY, THIRUVANANTHAPURAM.

2. THE ASSISTANT EXCISE COMMISSIONER, ERNAKULAM.

3. THE EXCISE CIRCLE INSPECTOR,KOTHAMANGALAM.

4. THE WELFARE FUND INSPECTOR,
TODDY WORKERS' WELFARE FUND BOARD, THODUPUZHA.

5. SHRI P.K.VIJAYAN S/O. SHRI KUTTAPPAN, POTHANICAD,
(CONTRACTOR OF T.S.NO.16 OF KOTHAMANGALAM RANGE)

6. COMMISSIONER OF EXCISE, THIRUVANANTHAPURAM.

7. M.R. SIVAN, S/O. RAMAN, AGED 50, MALAYIL HOUOSE,
MALIPPARA P.O., PINDIMANA VILLAGE, KOTHAMANGALAM.

8. M.R. RAVI, S/O. RAMAN, AGED 40, DO. DO.

9. K.R. SHIJU, S/O. RAJAN, AGED 35, KALAPURAIKKAL (H),
VADATTUPARA P.O., KUTTAMPUZHA VILLAGE, KOTHAMANGALAM.

10. K.N. SAJI, S/O. NARAYANAN, AGED 23, KAPPILAMPUDIYIL (H),
MALIPPARA P.O., PINDIMANA VILLAGE, KOTHAMANGALAM.

11. M.R. MANOHAORAN, S/O. RAMAKRISHNAN, AGED 38,
MULANTHANATH, CHELAD P.O., KOTHAMANGALAM.

12. N.R. KRISHNAN, S/O.RAMAN, AGED48, NEDUMPARAIKKAL HOUSE,
DO. DO.

13. K.C. ANILKUMAR, S/O. CHANDRAN, AGED 46, KALLADATIL HOUSE,
VADATTUPARA P.O., KUTTAMPUZHA VILLAGE, KOTHAMANGALAM.

14. P.N. BALAKRISHNAN,S/O.NARAYANAN, AGED 40, PULPRAKUDY HOUSE, PINDIMANA P.O., KOTHAMANGALAM.

15. A.K. VIJAYAN, S/O. KRISHNAN KUTTY, AGED 38, AMBATT HOUSE, PINDIMANA P.O., KOTHAMANGALAM.

16. O.K. VARGHESE, S/O. KURIYAKOSE, AGED 48, ONNEKKARA HOUSE,CHELAD P.O., KOTHAMANGALAM.

ADDL. R6 IS IMPLEADED AS PER ORDER DT. 27-3-2003 IN C.M.P.NO. 17349/2003.

ADDL. R7 TO R12 ARE IMPLEADED AS PER ORDER DT. 11-6-2003 IN I.A.2906/2003.

BY ADV. SRI.K.K.BABU
SRI.C.C.THOMAS
SRI.MAJNU KOMATH
SRI.RENIL ANTO, SC, KTWWF BOARD
GOVERNMENT PLEADER
SRI.RENIL ANTO, SC, KTWWF BOARD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 03/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF REGISTRATION CARD OF PETITIONER.

EXT.P2 REPRESENTATION DT. 3-4-2002.

EXT.P3 NOTICE DT. 26-7-2002.

EXT.P4 REPRESENTATION DT. 14-8-2002.

RESPONDENTS' EXHIBITS:

EXT.R1(a) TRUE COPY OF LETTER ISSUED BY WELFARE FUND INSPECTOR, THODUPUZHA.

[TRUE COPY]

P.S TO JUDGE.

S. Siri Jagan, J.

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O.P. No. 4179 of 2003

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Dated this, the 3rd January, 2007.

J U D G M E N T

Petitioner was a toddy worker of Toddy Shop No. 16 in the Kothamangalam range. The petitioner alleges that he was having continuous service of 13 years in the above shop. However, he was not given registration as contemplated under clause 33 of the Kerala Toddy Workers Welfare Fund Scheme. With great difficulty, after obtaining orders from this Court, he had obtained registration. However, the subsequent contractors of the toddy shop did not give the petitioner employment as the list of employees issued by the 4th respondent to them did not contain the name of the petitioner. It is under the above circumstances the petitioner has approached this Court seeking the following reliefs:

> "(i) To call for the entire records related to the case; and
>
> (ii) to issue a writ of mandamus compelling the respondents to continue to engage the petitioner in T.S.No. 16 of Chemmenkuthu Shop as sales man the Contractor being the 5th respondent.
>
> (iii) to direct the 4th respondent to forward the list to the 3rd respondent so as to submit before the 2nd respondent to enable the petitioner to get continuity in his work in the Toddy Shop."

2. This Court had, taking into account the facts and circumstances of the case, passed an interim order dated 27-3-2003 as follows:

> "Heard both sides.
>
> Petitioner's contention is that being a person employed by the former licencee who conducted TS No.16 up to 31-3-2002, the present 5th respondent who is the licencee for the period from 1-4-02 to 31-3-03 is also bound to employ him by virtue of the provisions in the rules concerned. The O.P could not be disposed of so far and further delay is inevitable in view of the additional impleadment of the 6th respondent vide orders passed today.
>
> In the meantime the term of the 5th respondent with regard to his licencee would run out. In the circumstances, it is ordered that expiry of the term of the 5th respondent or the prospect of fresh

> auction for the period from 1-4-2003 shall not in any way affect right of the petitioner to get employment under the prospective licencee for the next year and that the petitioner's name should also be included on a provisional basis in the list to be prepared for handing over to the new licencee for employment in TS - 16 for the period 1-4-2003 to 31-3-2004."

In view of the facts and circumstances of the case, I am of opinion that the the writ petition can be disposed of in terms of the said interim order. Ordered accordingly.

Sd/- S. Siri Jagan, Judge.

Tds/

S. Siri Jagan, J.

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O.P. No. 4179 of 2003

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J U D G M E N T

3rd January, 2007.